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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/619,173	07/14/2003	Edward R. Price	MILF-001/00US 308600-2025	4997
58349      7590      05/13/2008 COOLEY GODWARD KRONISH LLP ATTN: Patent Group Suite 1100 777 - 6th Street, NW WASHINGTON, DC 20001				
EXAMINER				
FADOK, MARK A				
ART UNIT		PAPER NUMBER		
3625				
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**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/619,173

**Applicant(s)**

PRICE, EDWARD R.

**Examiner**

MARK FADOK

**Art Unit**

3625

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 January 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-22, 24-26, 28, 29, 31, 32, 34 and 41 is/are pending in the application.
- 4a) Of the above claim(s) 30 and 36-40 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22, 24-26, 28-29, 31, 32, 34 and 41 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsman's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

***Response to Amendment***

The examiner is in receipt of applicant's response to office action mailed 11/29/2007 which was received 1/14/2008. Acknowledgement is made to the amendment to claims 1,4,7,9,15,17,20,22,26,30,32,34, the cancellation of claims 23,27,33,35 and the addition of claims 36-41. The examiner has carefully considered applicant's remarks and amendments and finds them convincing, however, after further searching the following new ground of rejection follows:

***Election/Restrictions***

Newly submitted claims 30, and 36-40 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: These claims would have been restricted in a species as containing divergent subject matter.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 30, and 36-40 withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

***Definition***

As described in para 0031 and 0032 of applicant's PG PUB 20050015265, not requiring approval from the manufacturer is considered to be any automatic ordering that is provided to a by the system to customers that have been approved to order products.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-3,4-7,9-15, 17 and 41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini et al (US 5,974,395) in view of Ballas et al (US PG PUB 20040019604) in view of Pemberton et al (US 20030225637), in view of Blankenstein (US PG PUB 200200116346), and further in view of Flynn (US PG PUB 20040088422).**

In regards to claims 1,9 and 17, Bellini discloses a method for providing an extended manufacturing environment (FIG 2), comprising:

receiving, at a manufacturer's server, a communication from a customer of the manufacturer (col 6, line 60-col 7, line 10) ,

automatically processing the communication at the manufacturer's server (col 7, lines 40-50), but does not specifically mention that the order is automatically processed to a group of suppliers. Ballas teaches automatically passing a customer order for parts including sub-components once a bill of materials has been established for the finished manufacturers part (para 0046), it would have been obvious to a person having ordinary

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skill in the art at the time of the invention to include in Bellini automatically passing a customer order for parts including sub-components once a bill of materials has been established for the finished manufacturers part, because placing the order automatically makes the system more efficient by not having to have a representative approve routine orders; and

Bellini teaches executing a request from a manufacturer to a supplier in real time (Col 6, lines 10-15), but does not specifically mention that the request is an order for supplies needed at a manufacturer. Pemberton teaches automatically instructing a supplier to supply the required parts (para 0016), it would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Bellini placing the order for the parts when a need arises, because a schedule would not be able to be firmed up unless an order was placed with the second tier supplier (col 3, lines 15-20)

providing the customer in real-time with detailed information about the product as it is being manufactured by the manufacturer (Pemberton, para 0010 and 0014).

Bellini and Pemberton teach limiting access to specific suppliers since only supplier's do business with the manufacturer and suppliers of the particular parts are provided to the customer. Therefore, the combination of Bellini and Pemberton inherently provide restrictions to suppliers. The combination of Bellini and Pemberton however does not specifically mention that there is a restriction provided between customers. Blankenstein teaches a message board where the manufacturer limits the access of customers to specific message boards. It would have been obvious to a

person having ordinary skill in the art at the time of the invention to include in Bellini and Pemberton the restricting of customers to specific message boards as taught by Blankenstein, because this will improve the communication of the customers on the message boards by assuring that customers do not have to sift through item messages and questions that are not pertinent to the issue of the customer. Applicant may argue the inherent nature of the restricted access to suppliers by the customer. For this reason, Flynn is introduced to teach limiting access at a portal such as a manufacturer web site of the instant invention. Flynn teaches allowing access to certain web sites (supplier sites) while denying access to other sites. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Bellini and Pemberton limiting the access to only certain suppliers, because this would assure that the customer is directed to a trusted supplier of the manufacturer so that the manufacturer can reduce liability of the customer having a bad experience with a supplier unknown to the manufacturer. Further the customer would only be with presented suppliers that are known to produce parts that are compatible with the manufacturers system into which the part will be installed.

The combination of Bellini Pemberton, Blankenstein, Flynn teach providing information in a managed manner through a central portal utilizing a supply chain planning engine that gathers data from among all the suppliers and customers and providing a purchase request directly to a supplier. The combination does not specifically teach receiving an indicator that the order for the second portion of the plurality of supplies has been rejected by the second supplier. The examiner takes

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Official Notice that providing a supplier the opportunity to refuse providing an order or fulfilling only a portion of an order was old and well known in the art at the time of the invention. Anderson is provided as an example of providing RFQs to select suppliers and if they do not respond within a period of time (indicate by not responding) the order is opened to the next tier of suppliers until all of the order is complete (para 0023-0035). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Bellini Pemberton, Blankenstein, Flynn, allowing a vendor to not accept a bid, because receiving a bid from a supplier that is not capable of executing the order will add undue delay to the order. Permitting a supplier to decline because they are not able to perform improves the supply chain by limiting orders for parts that are known not to be provided.

In regards to claims 2 and 10, the combination of Bellini and Pemberton teach wherein the receiving step comprises receiving the communication which comprises an order for the at least one product (col 6, lines 40-50).

In regards to claims 3 and 11, the combination of Bellini and Pemberton teach running a simulation to determine whether the order for the at least one product can be filled by the manufacturer (col 9, lines 10-25).

In regards to claim 12, the combination of Bellini and Pemberton teach wherein the receiving step comprises receiving the communication which comprises a request to change an existing order for the at least one product (col 6, lines 25-50).

In regards to claims 5 and 13, the combination of Bellini and Pemberton teach running a simulation to determine at least one impact of making the change request (col 6, lines 35-40).

In regards to claims 6 and 14, the combination of Bellini and Pemberton teach wherein the running step comprises running the simulation to determine at least one of a loss of ship date, a surcharge for re-assembling the at least one product, and an unexpected increase in price due to a change in sub-components of the at least one product (col 6, lines 40-50)

In regards to claims 7 and 16, the combination of Bellini and Pemberton teach wherein the receiving step comprises receiving the communication, which comprises a request for supplies (col 8, lines 15-30).

**Claims 8,16 and 18-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini et al (US 5,974,395) in view of Ballas et al (US PG PUB 20040019604) in view of Pemberton et al (US 20030225637) and further in view of Official Notice.**



**In regards to claims 8,16 and 18,19,21-29**, the combination of Bellini and Pemberton teach providing detailed information from various tiers or the supply chain to authorized parties (FIG 2-4, col 5, lines 37-43), but does not specifically mention the specific information contained in the instant claims. The examiner takes official notice that providing manufacturing metrics information through the access of vendor systems such as MRP, ERP, DRP, ect. was old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Bellini and Pemberton providing these metrics, because this information can provide for visibility to important information for meeting an organization's business needs (col 6, lines 49-51).

**In regards to claims 31,32,35,35**, collaboration tools such as streaming video and discussion threads were old and well known in the art at the time of the invention. It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in the combination of Bellini and Pemberton the collaboration tools of the instant claims, because these tools have been well established to improve productivity by increasing the flow and timeliness of accurate information.

**Claims 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bellini et al (US 5,974,395) in view of Ballas et al (US PG PUB 20040019604) in**

**view of Pemberton et al (US 20030225637), in view of Official Notice and further in view of Christoph (US PG PUB 2004/0103046).**

**In regards to claim 20**, the combination of Bellini Pemberton, Blankenstein, Flynn and Anderson teach monitoring product throughout a supply chain, but does not specifically teach identifying the location of a product in a manufacturing space using a scanner. Christoph teaches using a hand held scanner to indicate to an ERP system the location of parts in a manufacturing environment (para 0032). It would have been obvious to a person having ordinary skill in the art at the time of the invention to include in Bellini Pemberton, Blankenstein, Flynn and Anderson teach identifying the location of a product in a manufacturing space using a scanner as is taught by Christoph, because it is desirable to develop an ERP system in which data can be collected by workers in a much more efficient and accurate manner to increase the overall speed and efficiency of the ERP system. It is also desirable to develop an ERP system in which the more accurate data can be collected by the workers and transferred directly to the ERP system in a much faster manner in order for the ERP system to provide updated information on the operation of the business in virtually a real time manner (Christoph, para 0032).

#### **Response to Arguments**

Applicant's arguments with respect to claims 1-41 have been considered but are moot in view of the new ground(s) of rejection necessitated by amendment.

In response to applicant's argument that Blankenstein and Flynn and is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Both of the cited references teach the feature within a computerized network. Further, it is noted that all of the elements of the cited references perform the same function when combined as they do in the prior art . Thus such a combination would have yielded predictable results (see Sakraida, 425 US at 282, 189 USPQ at 453. Since the independent claims only unite old elements with no change in there respective functions the claimed subject matter would have been obvious under KSR, 127 S. Ct at 1741, 82 USPQ2d at 1396.

Supreme Court Decision in *KSR International Co. v. Teleflex Inc.* (KSR, 82 USPQ2d at 1396) forecloses the argument that a specific teaching, suggestion, or motivation is required to support a finding of obviousness. See the recent Board decision *Ex arte Smith*, --USPQ2d--, slip op. at 20, (Bd. Pat. App. & Interf. June 25, 2007).

A "traverse" is a denial of an opposing party's allegations of fact. The Examiner respectfully submits that applicants' arguments and comments do not

appear to traverse what Examiner regards as knowledge that would have been generally available to one of ordinary skill in the art at the time the invention was made. Even if one were to interpret applicants' arguments and comments as constituting a traverse, applicants' arguments and comments do not appear to constitute an adequate traverse because applicant has not specifically pointed out the supposed errors in the examiner's action, which would include stating why the noticed fact is not considered to be common knowledge or well-known in the art. 27 CFR 1.104(d)(2), MPEP 707.07(a). An adequate traverse must contain adequate information or argument to create on its face a reasonable doubt regarding the circumstances justifying Examiner's notice of what is well known to one of ordinary skill in the art. In re Boon, 439 F.2d 724, 728, 169 USPQ 231, 234 (CCPA1971).

If applicant does not seasonably traverse the well known statement during examination, then the object of the well known statement is taken to be admitted prior art. In re Chevenard, 139 F.2d 71, 60 USPQ 239 (CCPA 1943).

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to **Mark Fadok** whose telephone number is **571.272.6755**. The examiner can normally be reached Monday thru Friday 8:00 AM to 5:00 PM.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, **Jeffrey Smith** can be reached on **571.272.6763**.

Any response to this action should be mailed to:

***Commissioner for Patents***

***P.O. Box 1450***

Alexandria, Va. 22313-1450

or faxed to:

**571-273-8300** [Official communications; including  
After Final communications labeled  
"Box AF"]

For general questions the receptionist can be reached at  
**571.272.3600**

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/Mark Fadok/

Primary Examiner, Art Unit 3625